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| 10/717,076 | 11/18/2003 | Brian S. Appel | 12833-00011 | 6999 |
| 21918 7590 02/19/2010 DOWNS RACHLIN MARTIN PLLC 199 MAIN STREET P O BOX 190 BURLINGTON, VT 05402-0190 | | | | |
| EXAMINER | | | | |
| NGUYEN, TAM M | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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The argument that the Office Action is erroneous because it omits claims 26-29 and 48 is not persuasive. Claim 26 is the selected specie which is already in claim 1. Claims 27-28 are drawn to the non-elected claims. Claims 29 is dependent on claim 28, so it was not examined.

Since Claim 67 was canceled, Claim 67 would be withdrawn from the "Disposition of the Claims".

Applicant's election without traverse of the selected specie in the reply filed on October 22, 2008 was acknowledged. Any arguments regarding the election/restrictions here will not be addressed.

The argument that examiner failure to properly address claim 48 is not persuasive. Claim 48 and its dependent claims do not include the selected specie, which is animal processing waste, therefore, Claims 48 and its dependent claims are drawn to non-elected claims and won't be examined.

The argument that Lang is unsuited for the production of oil and could not produce oil since Lang does not hydrolyze the entire feedstock. It is reminded that the feedstock of Lang includes all kind of wastes including non-friable materials which are separated in the flotation step. Lang further teaches that light fraction, which comprises hydrolyzable materials, from the flotation step is passed to the hydrolysis. It would be expected that light fraction would includes fat/protein from animal waste that are considered hydrolyzable material and would produce liquid product comprising oil as claimed. (See col.3, lines 45-56)

Regarding claim 75, the argument that it is well known that dilute acid hydrolysis to produce sugars for ethanol production as disclosed in Lang is not persuasive. There is no

evidence that ethanol is the only product in the hydrolysis step of Lang. It appears that ethanol is produced mainly in the fermentation step.

Regarding claims 75-78, the argument that Lang does not teach a step of pre-heating and heating and heating to different temperatures is for different reasons also is not disclosed or suggested and Lang need not be concerned with maintaining a liquid state because all of the fat constituents that would coalesce at lower temperatures are removed by the floating process as explained and without the fats, the concern about unwanted biological activity is reduced is not persuasive. It is known that hydrolysis must be operated at much higher temperature and pressure than ambient temperature and pressure. The examiner maintains that pre-heating and the heating step would be obvious to one of skill in the art as the previous reasons. The reason or motivation to modify the reference may often suggest what the inventor has done, but for a different purpose or to solve a different problem. It is not necessary that the prior art suggest the combination to achieve the same advantage or result discovered by applicant. In re Linter, 458 F.2d 1013, 173 USPQ 560 (CCPA 1972); In re Dillon, 919 F.2d 688, 16 USPQ2d 1897 (Fed. Cir. 1990), cert. denied, 500 U.S. 904 (1991).

For all other arguments please see the responses above.